

DD/A Registry
77-4551

12 AUG 1977

MEMORANDUM FOR: Acting Deputy Director for Administration

FROM : F. W. M. Janney
Director of Personnel

SUBJECT : Title VI, Civil Rights Act of 1964

REFERENCE : Presidential Memorandum dtd 20 Jul 77, same subj.

1. Reference which was sent to the Office of Personnel for comment discusses the Administration's support for Title VI of the Civil Rights Act of 1964 and advises the Attorney General will be contacting each department and agency of the Government to determine what action has been taken to comply with the Attorney General's Title VI regulations.

2. Attached are copies of 42 U.S.C. 2000d through 2000d-4 where Title VI has been codified. As indicated in reference, Title VI deals with the Federally assisted programs and the Civil Rights ramifications thereof. This does not appear to be an Office of Personnel matter but rather belongs with the Office of Logistics and other Agency offices having contact or contracts with private firms.

3. Also attached is a copy of the Attorney General's Title VI regulations mentioned in reference.

(Signed) F. W. M. Janney

F. W. M. Janney

Atts.
As Stated

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RE Ch. 21

v. Board of Ed. of
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Ch. 21

CIVIL RIGHTS

42 § 2000d

SUBCHAPTER V.—FEDERALLY ASSISTED PROGRAMS

§ 2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under Federally assisted programs on ground of race, color, or national origin

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Pub.L. 88-352, Title VI, § 601, July 2, 1964, 78 Stat. 252.

Historical Note

Legislative History. For legislative 1964 U.S. Code Cong. and Adm. News, p. History and purpose of Pub.L. 88-352, see 2355.

Library References

Civil Rights § 9.5.

Notes of Decisions

- I. GENERALLY 1-40
- II. PARTICULAR PROGRAMS AND ACTIVITIES 41-49

Generally 1-40

Aid to families with dependent children 41

Answer 10

Class actions 8

Complaint 9

Defenses 11

Discrimination 2

Dismissal 14

Education 46

Employment practices 42

Evidence 15

Findings 17

Hospitals 43

Insurance 44

Injunctions 18

Jurisdiction 4

Laches 12

Moot questions 16

Particular programs and activities 41-49

Parties 7

Persons entitled to maintain action 6

Purpose 1

Recreational facilities 45

Remedies 3

Removal of actions 5

Review 20

Schools 46

Sovereign immunity 13

Standing to sue 6

Stay pending appeal 19

Taxation 47

Welfare 48

Zoning 49

I. GENERALLY

Subdivision Index

Answer 10

Class actions 8

Complaint 9

Defenses 11

Discrimination 2

Dismissal 14

Evidence 15

Findings 17

Injunctions 18

Jurisdiction 4

Laches 12

Moot questions 16

Parties 7

Persons entitled to maintain action 6

Purpose 1

Remedies 3

Removal of actions 5

42 § 2000d-1 PUBLIC HEALTH & WELFARE Ch. 21

§ 2000d-1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional committees; effective date of administrative action

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Pub.L. 88-352, Title VI, § 602, July 2, 1964, 78 Stat. 252.

Historical Note

Equal Opportunity in Federal Employment and in employment by Government, Nondiscrimination in government employment and in employment by Government contractors and subcontractors

Ch. 21

see Ex. Or.
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1969, 34 F.R.
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42 § 2000d-1 PUBLIC HEALTH & WELFARE

Ch. 21

Note 14

et seq. of Title 29 providing for the funding and operation of the employment services and were responsible for the violation of plaintiffs' rights under those laws. *Id.*

Under section 2000d of this title precluding discrimination in federally assisted programs, as applied to federal assistance from the Department of Health, Education and Welfare to institutions of higher education, elementary and secondary school districts, and vocational and other special schools, where efforts toward voluntary compliance had either not been attempted or had been unsuccessful or rejected, limited discretion of officials was ended and they could not in their discretion permit further advances of federal assistance but were obliged to effectuate the provisions of this subchapter either by administrative determination, after hearing on the record, that there has been a failure to comply, or by any other means authorized by law, such as reference to the Department of Justice. *Adams v. Richardson*, D.C.D.C.1972, 351 F.Supp. 636.

To the extent that resources permit Health, Education, and Welfare officials

have the duty to monitor school districts which are under court desegregation orders and to bring their findings to the attention of the court concerned. *Id.*

With respect to school districts and other educational agencies under final order of a federal court for desegregation of the school or school system operated by such agency, Health, Education, and Welfare officials are under no obligation to effectuate section 2000d of this title prohibiting discrimination in federally assisted programs, until there has been a finding by the court entering the order that its order has not been complied with. *Id.*

15. Attorneys fees

Whether plaintiffs were entitled to attorney's fees in action against federal agencies to compel enforcement of provisions of this subchapter with respect to federally assisted programs was appropriate for resolution in the first instance in the district court if and when the applications were made to it. *Adams v. Richardson*, C.A.D.C.1973, 480 F.2d 1139.

§ 2000d-2. Judicial review; Administrative Procedure Act

Any department or agency action taken pursuant to section 2000d-1 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d-1 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 1009 of Title 5 and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

Pub.L. 88-352, Title VI, § 603, July 2, 1964, 78 Stat. 253.

Historical Note

References in Text. Section 1009 of Title 5, referred to in the text, was repealed in the general revision of Title 5, and the provisions are now covered by sections 701-706 of Title 5, Government Organization and Employees.

Legislative History. For legislative history and purpose of Pub.L. 88-352, see 1964 U.S.Code Cong. and Adm.News, p. 2355.

42 § 2000d-1 PUBLIC HEALTH & WELFARE

Ch. 21

Note 14

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Legislative History. For legislative history and purpose of Pub.L. 88-352, see 1964 U.S. Code Cong. and Adm. News, 2355.

ARE Ch. 21

Ch. 21

CIVIL RIGHTS

42 § 2000d-3

Welfare to terminate federal funds to Wichita unified school district, parents of students who were selected by lottery under school desegregation agreement to attend schools outside their neighborhood did not have standing to challenge school desegregation agreement between board of education and Department of Health, Education and Welfare. *Linker v. Unified School Dist. No. 259, Wichita, Kan., D.C.Kan.1972, 344 F.Supp. 1187.*

Conference which directed program to promote, foster, assist and protect minority business enterprises and public interest in urban communities in United States and had long identified itself with all aspects of minority discrimination had standing to sue on its own behalf and on behalf of black businesses to sue for misallocation of small business administration funds in such manner as to discriminate against minority-owned businesses. *Southern Christian Leadership Conference, Inc. v. Connolly, D.C. Mich.1971, 331 F.Supp. 940.*

Residents of parish, which was not subject to Department of Health, Education, and Welfare school desegregation guidelines allegedly requiring forced busing and school attendance had no standing to challenge constitutionality of guidelines. *Parker v. Tangipahoa Parish School Bd., D.C.La.1969, 299 F.Supp. 431.*

Although members of public were included to be ultimate beneficiaries of federal subsidy programs granting aid to local urban renewal projects, plaintiffs, a nonprofit corporation organized for protecting and promoting interests of residents of area and individual owners or lessees of realty in area were not direct recipients of such funds within this section granting such recipients right

to judicial review and therefore they were not "adversely affected or aggrieved" by agency action and had no standing to bring suit under former section 1009 [now 701 et seq.] of Title 5 for judicial review of agency action. *Green St. Ass'n v. Daley, D.C.Ill.1966, 250 F.Supp. 139, affirmed 373 F.2d 1, certiorari denied 87 S. Ct. 2054, 387 U.S. 932, 18 L.Ed.2d 905.*

12. Sovereign immunity

Action by Board of Education against Secretary of Health, Education, and Welfare and Commissioner of Education to enjoin defendants from discontinuing payment of federal funds to which board was legally entitled was not barred by doctrine of sovereign immunity. *Lee County School Dist. No. 1 v. Gardner, D. C.S.C.1967, 263 F.Supp. 26.*

13. Evidence

Evidence in school desegregation proceeding disclosed that under facts presented the particular school system to which federal assistance was terminated under order of Department of Health, Education and Welfare and the other 98 systems listed in particular court order were, when the order was entered and served, subject to a final order of the United States for desegregation of such school systems within meaning of the Department regulation providing that the assurance of compliance as prerequisite to federal financial assistance was deemed satisfied if school system is subject to final order of court of United States for desegregation and if system gives assurance that it will comply with such order and that the city school system as required by regulation had provided assurance of compliance to the Department. *Lee v. Macon County Bd. of Ed., D.C.Ala.1967, 270 F.Supp. 859.*

§ 2000d-3. Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment

Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

Pub.L. 88-352, Title VI, § 604, July 2, 1964, 78 Stat. 253.

1. 42 U.S.C.A. §§ 1985-2010-18

42 § 2000d-3 PUBLIC HEALTH & WELFARE Ch. 21

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 88-352, see 1964 U.S. Code Cong. and Adm. News, p. 2355.

Notes of Decisions

Generally 1
Government contractors 2
School faculties 3

1. Generally

Section 2000d of this title, prohibiting discrimination in federally assisted programs does not preempt or limit authority of federal officials to file civil actions designed to reduce or eliminate racial discrimination, even though this section provides that this subchapter is not to be applicable to employment practices of recipients of federal assistance, except where primary objective of federal assistance is to provide employment or where discrimination in employment causes discrimination to the beneficiaries. U. S. by Mitchell v. Frazer, D.C. Ala. 1970, 317 F. Supp. 1079, supplemented 340 F. Supp. 703. See, also, U. S. by Clark v. Frazer, D.C. Ala. 1968, 297 F. Supp. 319.

2. Government contractors

General prohibition against discrimination in any program or activity receiving

federal financial assistance contained in section 2000d of this title cannot be construed as limiting executive authority in defining appropriate affirmative action on part of a government contractor. Contractors Ass'n of Eastern Pa. v. Secretary of Labor, C.A. Pa. 1971, 442 F.2d 159, certiorari denied 92 S.Ct. 98, 404 U.S. 854, 30 L.Ed.2d 95.

3. School faculties

This section providing that nothing contained in this subchapter should be construed to authorize action by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where primary objective of financial assistance is to provide employment was not intended as statutory bar to faculty integration in schools receiving federal aid. U. S. v. Jefferson County Bd. of Ed., C.A. Ala. & La. 1968, 372 F.2d 834, decree corrected 380 F.2d 385, certiorari denied 88 S.Ct. 77, 389 U.S. 840, 19 L.Ed.2d 104.

§ 2000d-4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty

Nothing in this subchapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

Pub.L. 88-352, Title VI, § 605, July 2, 1964, 78 Stat. 253.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 88-352, see 1964 U.S. Code Cong. and Adm. News, p. 2355.

Ch. 21

§ 2000d-5.

The Commissioner of Education may defer on any funds authorized to be expended for Elementary and Secondary Education Act of 1965 (Public Law 874, October 23, 1965) (Public Law 89-750) the provisions of this title is given to such agency is given the of 2000d-1 of this title, such notice, unless the consent of such local agency shall not continue any such hearing unless record of such hearing to comply with the purpose of the purpose of the is in compliance with with a final order or tion of the school or deemed to be complianters covered in the order Pub.L. 89-750, Title I, 247, Title I, § 112, Jan.

References in Text. "The Act of September 30, 1954, Eighty-first Congress," referred to in text, is the Elementary and Secondary Education Act of 1965, Pub.L. 89-750. For citation of Pub.L. 89-750 see Short Title of Title 20, Education, section 841 of Title 20, Education.

The Elementary and Secondary Education Act of 1965, referred to in text, is the Elementary and Secondary Education Act of 1965, Pub.L. 89-750, which enacted sections 241a-241l, 3322b of Title 20, Education, sections 236-241, 242-244, 3322b of Title 20, Education.

The Act of September 30, 1954, Eighty-first Congress, referred to in text, is classified to section 241a of Title 20, Education.

The Act of September 23, 1954, Eighty-first Congress, referred to in text, is classified to section 241a of Title 20, Education.

RULES AND REGULATIONS

52669

Approved For Release 2002/01/08 : CIA-RDP80-00473A000200110008-4

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 23, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: October 26, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-35095 Filed 11-30-76;8:45 am]

[Docket No. FT-2434]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation for City of San Angelo, Tom Green County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), (42 U.S.C. 4001-4128), and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of San Angelo, Tom Green County, Texas under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Main Lobby in City Hall Plaza, San Angelo, Texas.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea-level	Width in feet from bank of stream to 100-yr. flood boundary facing downstream	
			Left	Right
South Concho River...	Atchison, Topeka, and Santa Fe RR...	1,847	120	130
	Chadbourne St.	1,819	50	300
	Ben Ficklin Dam	1,833	400	770
	East Ave. L.	1,814	640	280
Red Arroyo.....	U.S. Highway 67	1,882	1,160	220
	Knickerbocker Rd.	1,856	530	250
	Atchison, Topeka, and Santa Fe RR...	1,852	180	120
	South Abe St.	1,835	180	810
North Concho River...	Chadbourne St.	1,823	70	440
	East 23th St.	1,848	110	1,070
	East 14th St.	1,835	200	220
	Caddo St.	1,829	40	20
Concho River.....	Beauregard Ave.	1,823	100	0
	Chadbourne St.	1,813	100	40
	Atchison, Topeka, and Santa Fe RR...	1,800	20	60
	Bell St.	1,803	180	50
East Angelo Draw.....	Woodruff St (extended)	1,801	220	140
	39th St.	1,873	200	150
	East 23th St.	1,861	260	220
	Hughes St.	1,843	350	120
South Fork of Red Arroyo.	Harris Ave. (extended)	1,823	350	500
	Corporate limits.	1,877	200	300
	Forest trail.	1,872	350	400
	College Hills Blvd.	1,870	1,750	1,200
Brentwood Park Arroyo.	Dam.	1,911	220	140
	State Highway 306	1,886	210	540
	Howard St.	1,870	90	320
	North Monroe St.	1,853	100	150
West Branch.....	South Madison St. (extended)	1,850	140	130
	Confluence with South Fork of Red Arroyo.	1,802	680	320
	1,600 ft upstream from confluence with South Fork Red Arroyo.	1,900	240	180
	3,200 ft upstream from confluence with South Fork Red Arroyo.	1,910	230	250

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 23, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: October 26, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-35096 Filed 11-30-76;8:45 am]

Approved For Release 2002/01/08 : CIA-RDP80-00473A000200110008-4

Title 28—Judicial Administration CHAPTER I—DEPARTMENT OF JUSTICE [Order No. 670-78]

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs

On July 29, 1976, a document was published in the FEDERAL REGISTER (41 FR 31550) proposing Subpart F, Part 42, Title 28, Code of Federal Regulations. The proposed regulations set forth minimum requirements for implementation by Federal agencies of Title VI of the Civil Rights Act of 1964, (42 U.S.C. 2000d-d-4). The proposal was based upon Executive Order 11764 which delegates to the Attorney General authority to coordinate and assist agency enforcement of Title VI, to prescribe standards and procedures regarding such enforcement, and to issue necessary regulations and orders. All comments submitted with respect to the proposed regulations were given due consideration.

As a result of comments received, the following changes are made in the regulations. In addition, typographical errors are corrected.

1. The designation of racial/ethnic categories in § 42.402(e) is revised to conform with the recommendation of the Office of Management and Budget Ad Hoc Committee on Racial/Ethnic Categories.

2. Section 42.403 is amended by addition of a provision pointing out the obligation of each federal agency to list in an appendix to its Title VI regulation the statutes authorizing federal financial assistance to which the regulation applies.

3. The first complaint reporting date set forth in § 42.408(d) is changed to January 1, 1977, since final publication of these regulations makes the original date of October 1, 1976 inapplicable.

4. Section 42.412(b) is amended to reflect the existing practice of routinely submitting Department of Justice inter-agency survey reports to the Office of Management and Budget.

Accordingly, with these changes and additions, it is hereby ordered that the proposed Subpart F is adopted as set forth below.

Dated: November 23, 1976.

EDWARD H. LEVI,
Attorney General.

Subpart F—Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs

Sec.	
42.401	Purpose and application.
42.402	Definitions.
42.403	Agency regulations.
42.404	Guidelines.
42.405	Public dissemination of Title VI information.
42.406	Data and information collection.
42.407	Procedures to determine compliance.
42.408	Complaint procedures.
42.409	Employment practices.
42.410	Continuing state programs.
42.411	Methods of resolving noncompliance.
42.412	Coordination.

Sec.

- 42.413 Interagency coordination.
42.414 Federal agency staff.
42.415 Federal agency Title VI enforcement plan.

AUTHORITY: This subpart is issued pursuant to Executive Order 11764 (39 FR 2575).

§ 42.401 Purpose and application.

The purpose of this subpart is to insure that federal agencies which extend financial assistance properly enforce Title VI of the Civil Rights Act of 1964 and similar provisions in federal grant statutes. Enforcement of the latter statutes is covered by this subpart to the extent that they relate to prohibiting discrimination on the ground of race, color or national origin in programs receiving federal financial assistance of the type subject to Title VI. Responsibility for enforcing Title VI rests with the federal agencies which extend financial assistance. In accord with the authority granted the Attorney General under Executive Order 11764, this subpart shall govern the respective obligations of federal agencies regarding enforcement of Title VI. This subpart is to be used in conjunction with the 1965 Attorney General Guidelines for Enforcement of Title VI, 28 CFR 50.3.

§ 42.402 Definitions.

For purpose of this subpart:

(a) "Title VI" refers to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-4. Where appropriate, this term also refers to the civil rights provisions of other federal statutes to the extent that they prohibit discrimination on the ground of race, color or national origin in programs receiving federal financial assistance of the type subject to Title VI.

(b) "Agency" or "federal agency" refers to any federal department or agency which extends federal financial assistance of the type subject to Title VI.

(c) "Program" refers to programs and activities receiving federal financial assistance of the type subject to Title VI.

(d) "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(e) Where designation of persons by race, color or national origin is required, the following designations shall be used:

(1) *Black, not of Hispanic Origin.* A person having origins in any of the black racial groups of Africa.

(2) *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

(3) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(4) *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

(5) *White, not of Hispanic Origin.* A person of the original people of Europe, North Africa, or the Middle East. Additional subcategories based on national origin or primary language spoken may be used where appropriate, on either a national or a regional basis. Subparagraphs (1) through (5), inclusive, set forth in this section are in conformity with the OMB Ad Hoc Committee on Race/Ethnic Categories' recommendations. To the extent that said designations are modified by the OMB Ad Hoc Committee, subparagraphs (1) through (5), inclusive, set forth in this section shall be interpreted to conform with those modifications.

(f) "Covered employment" means employment practices covered by Title VI. Such practices are those which (1) Exist in a program where a primary objective of the federal financial assistance is to provide employment, or (2) Cause discrimination on the basis of race, color or national origin with respect to beneficiaries or potential beneficiaries of the assisted program.

§ 42.403 Agency regulations.

(a) Any federal agency subject to Title VI which has not issued a regulation implementing Title VI shall do so as promptly as possible and, no later than the effective date of this subpart, shall submit a proposed regulation to the Assistant Attorney General pursuant to paragraph (c) of this section.

(b) Any federal agency which becomes subject to Title VI after the effective date of this subpart shall, within 60 days of the date it becomes subject to Title VI, submit a proposed regulation to the Assistant Attorney General pursuant to paragraph (c) of this section.

(c) Regarding issuance or amendment of its regulation implementing Title VI, a federal agency shall take the following steps:

(1) Before publishing a proposed regulation or amendment in the FEDERAL REGISTER, submit it to the Assistant Attorney General, Civil Rights Division;

(2) After receiving the approval of the Assistant Attorney General, publish the proposed regulation or amendment in the FEDERAL REGISTER for comment;

(3) After final agency approval, submit the regulation or amendment, through the Assistant Attorney General, to the Attorney General for final approval. (Executive Order 11764 delegates to the Attorney General the function, vested in the President by section 602 of Title VI, 42 U.S.C. 2000d-1, of approving Title VI regulations and amendments to them.)

(d) The Title VI regulation of each federal agency shall be supplemented with an appendix listing the types of federal financial assistance, i.e., the statutes authorizing such assistance, to which the regulation applies. Each such appendix shall be kept up-to-date by amendments published, at appropriate intervals, in the FEDERAL REGISTER. In issuing or amending such an appendix, the agency need not follow the procedure set forth in paragraph (c) of this section.

§ 42.404 Guidelines.

Federal agencies shall publish Title VI guidelines for each type of program to which they extend financial assistance, where such guidelines would be appropriate to provide detailed information on the requirements of Title VI. Such guidelines shall be published within three months of the effective date of this subpart or of the effective date of any subsequent statute authorizing federal financial assistance to a new type of program. The guidelines shall describe the nature of Title VI coverage, methods of enforcement, examples of prohibited practices in the context of the particular type of program, required or suggested remedial action, and the nature of requirements relating to covered employment, data collection, complaints and public information.

(b) Where a federal agency determines that Title VI guidelines are not appropriate for any type of program to which it provides financial assistance, the reasons for the determination shall be stated in writing and made available to the public upon request.

§ 42.405 Public dissemination of Title VI information.

(a) Federal agencies shall make available and, where appropriate, distribute their Title VI regulations and guidelines for use by federal employees, applicants for federal assistance, recipients, beneficiaries and other interested persons.

(b) State agency compliance programs (see § 42.410) shall be made available to the public.

(c) Federal agencies shall require recipients, where feasible, to display prominently in reasonable numbers and places posters which state that the recipients operate programs subject to the non-discrimination requirements of Title VI, summarize those requirements, note the availability of Title VI information from recipients and the federal agencies, and explain briefly the procedures for filing complaints. Federal agencies and recipients shall also include information on Title VI requirements, complaint procedures and the rights of beneficiaries in handbooks, manuals, pamphlets and other material which are ordinarily distributed to the public to describe the federally assisted programs and the requirements for participation by recipients and beneficiaries. To the extent that recipients are required by law or regulation to publish or broadcast program information in the news media, federal agencies and recipients shall insure that such publications and broadcasts state that the program in question is an equal opportunity program or otherwise indicate that discrimination in the program is prohibited by federal law.

(d) (1) Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program (e.g., affected by relocation) needs service or information in a language other than English in order effectively to be informed of or to participate in the program, the recipient shall take reasonable

steps, considering the scope of the program and the size and composition of such population, to provide information in appropriate languages to such persons. This requirement applies with regard to written material of the type which is ordinarily distributed to the public.

(2) Federal agencies shall also take reasonable steps to provide, in languages other than English, information regarding programs subject to Title VI.

§ 42.406. Data and information collection.

(a) Except as determined to be inappropriate in accordance with paragraph (f) of this section or § 42.404(b), federal agencies, as a part of the guidelines required by § 42.404, shall in regard to each assisted program provide for the collection of data and information from applicants for and recipients of federal assistance sufficient to permit effective enforcement of Title VI.

(b) Pursuant to paragraph (a) of this section, in conjunction with new applications for federal assistance (see 28 CFR 50.3 (c) II A) and in any applications for approval of specific projects or significant changes in applications for continuation or renewal of assistance (see 28 CFR 50.3(c) II B), and at other times as appropriate, federal agencies shall require applicants and recipients to provide relevant and current Title VI information. Examples of data and information which, to the extent necessary and appropriate for determining compliance with Title VI, should be required by agency guidelines are as follows:

(1) The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination;

(2) The population eligible to be served, by race, color and national origin;

(3) Data regarding covered employment, including use or planned use of bilingual public-contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English;

(4) The location of existing or proposed facilities connected with the program, and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination;

(5) The present or proposed membership, by race, color and national origin, in any planning or advisory body which is an integral part of the program;

(6) Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color or national origin

(c) Where additional data, such as demographic maps, the racial composition of affected neighborhoods or census data, is necessary or appropriate, for understanding information required in

paragraph (b) of this section, federal agencies shall, in addition to the data or in other directives, the need to submit such data. Such additional data should be required, however, only to the extent that it is readily available or can be compiled with reasonable effort.

(d) Pursuant to paragraphs (a) and (b) of this section, in all cases, federal agencies shall require:

(1) That each applicant or recipient promptly notify the agency upon its request of any lawsuit filed against the applicant or recipient alleging discrimination on the basis of race, color or national origin, and that each recipient notify the agency upon its request of any complaints filed against the recipient alleging such discrimination;

(2) A brief description of any applicant's or recipient's pending applications to other federal agencies for assistance, and of federal assistance being provided at the time of the application or requested report;

(3) A statement by any applicant describing any civil rights compliance reviews regarding the applicant conducted during the two-year period before the application, and information concerning the agency or organization performing the review; and periodic statements by any recipient regarding such reviews;

(4) A written assurance by any applicant or recipient that it will compile and maintain records required, pursuant to paragraphs (a) and (b) of this section, by the agency's guidelines or other directives.

(e) Federal agencies should inquire whether any agency listed by the applicant or recipient pursuant to paragraph (d) (2) of this section has found the applicant or recipient to be in noncompliance with any relevant civil rights requirement.

(f) Where a federal agency determines that any of the requirements of this section are inapplicable or inappropriate in regard to any program, the basis for this conclusion shall be set forth in writing and made available to the public upon request.

§ 42.407 Procedures to determine compliance.

(a) *Agency staff determination responsibility.* All federal agency staff determinations of Title VI compliance shall be made by, or be subject to the review of, the agency's civil rights office. Where federal agency responsibility for approving applications or specific projects has been assigned to regional or area offices, the agency shall include personnel having Title VI review responsibility on the staffs of such offices and such personnel shall perform the functions described in paragraphs (b) and (c) of this section.

(b) *Application review.* Prior to approval of federal financial assistance, the federal agency shall make written determination as to whether the applicant is in compliance with Title VI (see 28 CFR 50.3(c) II A). The basis for such a determination under "the agency's own investigation" provision (see 28 CFR 50.3 (c) IIA(2)), shall be submission of an

assurance of compliance and a review of the applicant. Where a determination cannot be made from this data, the agency shall require the submission of necessary additional information and shall take other steps necessary for making the determination. Such other steps may include, for example, communicating with local government officials or minority group organizations and field reviews. Where the requested assistance is for construction, a pre-approval review should determine whether the location and design of the project will provide service on a non-discriminatory basis and whether persons will be displaced or relocated on a nondiscriminatory basis.

(c) *Post-approval review.* (1) Federal agencies shall establish and maintain an effective program of post-approval compliance reviews regarding approved new applications (see 28 CFR 50.3(c) II A), applications for continuation or renewal of assistance (28 CFR 50.3(c) II B) and all other federally assisted programs. Such reviews are to include periodic submission of compliance reports by recipients to the agencies and, where appropriate, field reviews of a representative number of major recipients. In carrying out this program, agency personnel shall follow agency manuals which establish appropriate review procedures and standards of evaluation. Additionally, agencies should consider incorporating a Title VI component into general program reviews and audits.

(2) The results of post-approval reviews shall be committed to writing and shall include specific findings of fact and recommendations. A determination of the compliance status of the recipient reviewed shall be made as promptly as possible.

(d) *Notice to assistant attorney general.* Federal agencies shall promptly notify the Assistant Attorney General of instances of probable noncompliance determined as the result of application reviews or post-approval compliance reviews.

§ 42.408 Complaint procedures.

(a) Federal agencies shall establish and publish in their guidelines procedures for the prompt processing and disposition of complaints. The complaint procedures shall provide for notification in writing to the complainant and the applicant or recipient as to the disposition of the complaint. Federal agencies should investigate complaints having apparent merit. Where such complaints are not investigated, good cause must exist and must be stated in the notification of disposition. In such cases, the agency shall ascertain the feasibility of referring the complaint to the primary recipient, such as a state agency, for investigation.

(b) Where a federal agency lacks jurisdiction over a complaint, the agency shall, wherever possible, refer the complaint to another federal agency or advise the complainant.

(c) Where a federal agency requires or permits recipient to process Title VI complaints, the agency shall ascertain

whether the recipients' procedures for processing complaints are adequate. The federal agency shall obtain a written report of each such complaint and investigation and shall retain a review responsibility over the investigation and disposition of each complaint.

(d) Each federal agency shall maintain a log of Title VI complaints filed with it, and with its recipients, identifying each complainant by race, color, or national origin; the recipient; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition; the date of disposition; and other pertinent information. Each recipient processing Title VI complaints shall be required to maintain a similar log. Federal agencies shall report to the Assistant Attorney General on January 1, 1977, and each six months thereafter, the receipt, nature and disposition of all such Title VI complaints.

§ 42.409 Employment practices.

Enforcement of Title VI compliance with respect to covered employment practices shall not be superseded by state and local merit systems relating to the employment practices of the same recipient.

§ 42.410 Continuing state programs.

Each state agency administering a continuing program which receives federal financial assistance shall be required to establish a Title VI compliance program for itself and other recipients which obtain federal assistance through it. The federal agencies shall require that such state compliance programs provide for the assignment of Title VI responsibilities to designated state personnel and comply with the minimum standards established in this subpart for federal agencies, including the maintenance of records necessary to permit federal officials to determine the Title VI compliance of the state agencies and the sub-recipient.

§ 42.411 Methods of resolving noncompliance.

(a) Effective enforcement of Title VI requires that agencies take prompt action to achieve voluntary compliance in all instances in which noncompliance is found. Where such efforts have not been successful within a reasonable period of time, the agency shall initiate appropriate enforcement procedures as set forth in the 1965 Attorney General Guidelines, 28 CFR 50.3. Each agency shall establish internal controls to avoid unnecessary delay in resolving noncompliance, and shall promptly notify the Assistant Attorney General of any case in which negotiations have continued for more than sixty days after the making of the determination of probable noncompliance and shall state the reasons for the length of the negotiations.

(b) Agreement on the part of a non-complying recipient to take remedial steps to achieve compliance with Title VI shall be set forth in writing by the recipient and the federal agency. The remedial plan shall specify the action necessary for the compliance.

iciencies and shall be available to the public.

§ 42.412 Coordination.

(a) The Attorney General's authority under Executive Order 11764 is hereby delegated to the Assistant Attorney General, Civil Rights Division. In exercising that authority, the Assistant Attorney General shall be subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General.

(b) Consistent with this subpart and the 1965 Attorney General Guidelines, 28 CFR 50.3, the Assistant Attorney General may issue such directives and take such other action as he deems necessary to insure that federal agencies carry out their responsibilities under Title VI. In addition, the Assistant Attorney General will routinely provide to the Director of the Office of Management and Budget copies of all inter-agency survey reports and related materials prepared by the Civil Rights Division that evaluate the effectiveness of an agency's Title VI compliance efforts. Where cases or matters are referred to the Assistant Attorney General for investigation, litigation or other appropriate action, the federal agencies shall, upon request, provide appropriate resources to the Assistant Attorney General to assist in carrying out such action.

§ 42.413 Interagency cooperation and delegations.

(a) Where each of a substantial number of recipients is receiving assistance for similar or related purposes from two or more federal agencies, or where two or more federal agencies cooperate in administering assistance for a given class of recipients, the federal agencies shall:

(1) Jointly coordinate compliance with Title VI in the assisted programs, to the extent consistent with the federal statutes under which the assistance is provided; and

(2) Designate one of the federal agencies as the lead agency for Title VI compliance purposes. This shall be done by a written delegation agreement, a copy of which shall be provided to the Assistant Attorney General and shall be published in the FEDERAL REGISTER.

(b) Where such designations or delegations of functions have been made, the agencies shall adopt adequate written procedures to assure that the same standards of compliance with Title VI are utilized at the operational levels by each of the agencies. This may include notification to agency personnel in handbooks, or instructions on any forms used regarding the compliance procedures.

(c) Any agency conducting a compliance review or investigating a complaint of an alleged Title VI violation shall notify any other affected agency upon discovery of its jurisdiction and shall subsequently inform it of the findings made. Such reviews or investigations may be made on a joint basis.

(d) Where a compliance review or complaint investigation under Title VI reveals a possible violation of Executive Order 11764, Title VI of the Civil Rights

Act of 1964 (42 U.S.C. 2000e), or any other federal law, the appropriate agency shall be notified.

§ 42.414 Federal agency staff.

Sufficient personnel shall be assigned by a federal agency to its Title VI compliance program to ensure effective enforcement of Title VI.

§ 42.415 Federal agency Title VI enforcement plan.

Each federal agency subject to Title VI shall develop a written plan for enforcement which sets out its priorities and procedures. This plan shall be available to the public and shall address matters such as the method for selecting recipients for compliance reviews, the establishment of timetables and controls for such reviews, the procedure for handling complaints, the allocation of its staff to different compliance functions, the development of guidelines, the determination as to when guidelines are not appropriate, and the provision of civil rights training for its staff.

Effective date: This subpart shall become effective on or before January 3, 1976.

[FR Doc.76-35130 Filed 11-30-76; 8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER J—CIVILIAN PERSONNEL

PART 890—FILLING POSITIONS

Revised Regulations

Part 890 of Subchapter J, Chapter VII, Title 32 of the CFR, is revised to read as follows:

Sec.	Purpose.
890.1	Policy.
890.2	Policy.
890.3	Suitability of candidate and security factors.
890.4	Qualification requirements.
890.5	Referral and selection of candidates.
890.6	Referral and selection priorities.
890.7	Restrictions on employing relatives.
890.8	Restrictions on employment of retired members of the uniformed services.
890.9	Air Force participation.
890.10	Employment under special programs.
890.11	Supergrade and scientific and professional (ST) positions.
890.12	Overseas positions.
890.13	Positions at grade GS-15.
890.14	Other special category positions.
890.15	Referral and selection priorities.
890.16	Procedures for filling GS-15 positions in the competitive service.

AUTHORITY: Sec. 8012, 70A, Stat. 488; 10 U.S.C. 8012.

§ 890.1 Purpose.

This Part contains information needed by commanders, civilian personnel offices (CPO), staff offices, and supervisors of civilian employees in positions paid from appropriated funds. It sets forth basic Air Force policy for filling positions, specifies the priorities and restrictions which must be observed, and prescribes special procedures for filling GS-15 positions in the competitive service. It does not apply to the employment of non-

RULES AND REGULATIONS
Approved For Release 2002/01/08 : CIA-RDP80-00473A000200110008-4

Effective date: This order is effective December 7, 1976. Any person interested may file written comments on or objections to the order on or before January 7, 1977. If any such comments or objections raise significant issues regarding any finding of fact or conclusions of law upon which the order is based, the Acting Deputy Administrator shall immediately suspend the effectiveness of his order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Acting Deputy Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated: November 30, 1976.

WILLIAM J. OLIVANTI,
Acting Deputy Administrator,
Drug Enforcement Administration.
 [FR Doc.76-35963 Filed 12-6-76;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Presorting Requirements for Mail Sent At Library Rate of Postage

In the July 12, 1976, FEDERAL REGISTER (41 FR 28478), as amended and corrected on October 20, 1976, (41 FR 46295), and October 28, 1976, (41 FR 47236), there appeared the final regulations of the Postal Service implementing the changes in the mail classification schedule that were approved by the Governors of the Postal Service on June 12, 1976. Section 135.263 of those regulations, which, as published, dealt only with the use of the ZIP code on special fourth class and library rate materials, inadvertently failed to carry forward the preexisting presort requirements for mailings consisting of 1,000 or more items mailed at the library rate of postage.

Prior to adoption of the mail classification implementing regulations on July 12, 1976, the presort requirements for 1,000 or more library rate items were in section 135.216 of the Postal Service Manual. It is the purpose of this document, then, to restore to 135.263 of present regulations the matter contained in former 135.216, which was inadvertently omitted. In addition, the requirement that special fourth class rate and library rate mail use ZIP codes, presently in 135.263, is omitted as unnecessary, since this requirement is already contained in 135.7 of the Postal Service Manual.

Accordingly, the Postal Service hereby adopts the following revision of the Postal Service Manual, effective immediately.

PART 135—FOURTH CLASS
 In 135.2 revise .263 to read as follows:
 135.2 Classification.

.26 Fourth-class library rate.

.263 When 5,000 or more identical pieces are mailed at the rates provided in 135.14 during a single day and there are enough pieces for the same destination to fill approximately one-third of a sack, they must be presorted and placed in sacks under the instructions contained in 134.432, and 134.436 a(2), b(2), c(2), d(2), and e(2). When 1,000 or more but less than 5,000 identical pieces are mailed at these rates during a single day and there are enough pieces for the same destination to fill approximately one-third of a sack, they must be presorted and placed in sacks under the instructions in 134.432, and 134.436 b(2), c(2), d(2), and e(2).

A Post Office Services (Domestic) transmittal letter making this change in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. This change will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401, 3623.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76-35852 Filed 12-6-76;8:45 am]

Title 28—Judicial Administration
CHAPTER I—DEPARTMENT OF JUSTICE
 [Order No. 670-76]

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs
Correction

In FR Doc. 76-35130 appearing at page 52669 in the issue for Wednesday, December 1, 1976, the effective date appearing in the third column of page 52672 should have read "Effective date: January 3, 1977."

Title 24—Housing and Urban Development
CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2399]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

• The purpose of this notice is to list those communities wherein the sale of

flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

Executive Registry
77-1573
DD/A Registry
77-4188

THE WHITE HOUSE
WASHINGTON

July 20, 1977

PT'S 77-2474

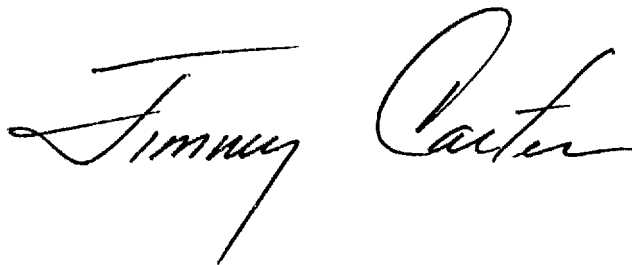
MEMORANDUM FOR THE HEADS OF
EXECUTIVE DEPARTMENTS AND AGENCIES

Title VI of the Civil Rights Act of 1964 writes into law a concept which is basic to our country -- that the government of all the people should not support programs which discriminate on the grounds of race, color, or national origin. There are no exceptions to this rule; no matter how important a program, no matter how urgent the goals, they do not excuse violating any of our laws -- including the laws against discrimination.

This Administration will enforce Title VI. This means, first, that each of you must exert firm leadership to ensure that your department or agency enforces this law.

Second, there must be central guidance and oversight of Title VI enforcement. Executive Order 11764 places with the Attorney General the responsibility for coordinating Title VI enforcement and for approving rules, regulations and orders which departments or agencies issue under Title VI. I want the Attorney General to work closely with each of you to help you make sure that your department or agency is doing an effective job, and I have asked him to give this matter a high priority. The Department of Justice will shortly be contacting each department and agency to determine what action has been taken to comply with the Attorney General's Title VI regulations. You should insist that your staff cooperate fully with the Department of Justice staff as they carry out this task and their other responsibilities under the Executive Order.

Finally, as you know, Title VI was intended to provide an administrative mechanism for insuring equal treatment in Federal programs. Consequently, administrative proceedings leading to fund terminations are the preferred method of enforcing Title VI, and this sanction must be utilized in appropriate cases. There may be some instances, however, where litigation is in order. You must make sure such cases are referred to the Department of Justice. The effective use of the sanctions provided by Title VI is an essential element of this Administration's effort to guarantee that Federal funds do not flow to discriminatory programs.

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DD/A Registry
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		ACTION	INFO	DATE	INITIAL
1	DCI		X		
2	DDCI		X		
3	D/DCI/IC				
4	DDS&T				
5	DDI				
6	DDA	X			
7	DDO				
8	D/DCI/NI				
9	GC		X		
10	LC				
11	IG				
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	A/DCI/PA				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EEO		X		
21					
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SUSPENSE _____

Date

D/PERS:

(13-40)
MFG 1-76

DD/A 77 - 4188

CROSS REFERENCE OR
POINT OF FILING

ROUTING
RFZ.

DATE
SENT

THE WHITE HOUSE

WASHINGTON

Executive Registry
77-1823
DD/A Registry
77-4188

July 20, 1977

MEMORANDUM FOR THE HEADS OF

EXECUTIVE DEPARTMENTS AND AGENCIES

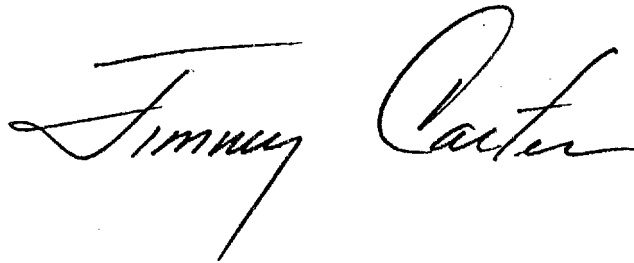
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2

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A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink on a white background.

STATINTL Approved For Release 2002/01/08 : CIA-RDP80-00473A000200110008-4

Approved For Release 2002/01/08 : CIA-RDP80-00473A000200110008-4